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Supreme Court, U.S.
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No. 98-1464

In the Supreme Court of the United States

JANET RENO, ATTORNEY GENERAL OF THE UNITED STATES, ET AL., PETITIONERS

v.

CHARLIE CONDON, ATTORNEY GENERAL FOR THE STATE OF SOUTH CAROLINA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

SUPPLEMENTAL BRIEF FOR THE PETITIONERS

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The Court granted certiorari in this case (in which oral argument is scheduled for November 10, 1999) to determine whether the Driver's Privacy Protection Act of 1994 (DPPA), 18 U.S.C. 2721-2725 (1994 & Supp. III 1997), which was enacted as an exercise of Congress's authority under the Commerce Clause, U.S. Const. Art. I, § 8, Cl. 3, contravenes the constitutional principles of federalism embodied in the Tenth Amendment. Since the briefs on the merits were filed, Congress has enacted a law that both strengthens the substantive restrictions on disclosure of information from motor vehicle records and changes the practical significance of the legal issue before the Court.

1. On October 9, 1999, the President signed into law Public Law No. 106-69, 113 Stat. 986, the appropriations Act for the Department of Transportation and related agencies for Fiscal Year 2000 (DOT Act). Section 350 of the DOT Act amends and otherwise affects the DPPA's substantive restrictions on disclosure of personal information from state department of motor vehicle (DMV) records in several important respects.[1]

a. Section 350(a) of the DOT Act provides that no recipient of funds made available in the DOT Act shall disseminate

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[1] We have reproduced in an appendix to this brief both Section 350 itself and the sparse legislative history of Section 350 that we have identified. That legislative history includes (a) the original version of the funding provision passed by the Senate on September 16, 1999 (S. 1143, 106th Cong., 1st Sess. § 339 (1999), passed as a substitute amendment for H.R. 2084, see 145 Cong. Rec. S10,981 (daily ed. Sept. 16, 1999)); (b) the relevant excerpt from the Senate Report explaining the Senate-passed version (S. Rep. No. 55, 106th Cong., 1st Sess. 166 (1999)); (c) the relevant portion of the Conference Report explaining Section 350 as finally passed by both Houses (H.R. Conf. Rep. No. 355, 106th Cong., 1st Sess. 121 (1999)); and (d) the floor statement of Senator Shelby explaining Section 350 (145 Cong. Rec. S11,863 (daily ed. Oct. 4, 1999)). In addition, we have lodged with the Clerk a copy of the enrolled bill, H.R. 2084, 106th Cong., 1st Sess. (1999), that was signed by the President and became Public Law No. 106-69. Section 350 is found at pages 40-41 of the lodged copy of the bill.

certain driver's license "personal information," as defined in 18 U.S.C. 2725(3),[2] "except as provided by" Section 350(b) of the DOT Act. (Section 350(b), as explained below (p. 4, *infra*), specifically addresses the disclosure of photographs, social security numbers, and medical and disability information from motor vehicle records.) Section 350(a) further provides that no recipient of funds made available in the DOT Act shall disseminate "motor vehicle records," as defined in 18 U.S.C. 2725(1), for any use not permitted under 18 U.S.C. 2721, which contains the DPPA's basic restrictions on disclosure.[3]

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[2] Section 2725(3) provides that "'personal information' means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status." The phrase "[d]river's license personal information" used in Section 350(a) of the DOT Act presumably refers to any of the quoted information that appears on (or is obtained from a motor vehicle record pertaining to) a driver's license (*i.e.*, an operator's permit, see 18 U.S.C. 2725(1)).

[3] Section 350(a) of the DOT Act states in full: "No recipient of funds made available in this Act shall disseminate driver's license personal information as defined in 18 U.S.C. 2725(3) except as provided in subsection (b) of this section or motor vehicle records as defined in 18 U.S.C. 2725(1) for any use not permitted under 18 U.S.C. 2721." Section 350(a) distinguishes between "driver's license personal information" (referring to personal information specifically connected in state DMV records to an individual's operator's permit) and "motor vehicle records" (evidently referring more broadly to personal information found in state DMV records, including title and registration records). The DPPA defines "motor vehicle record" to mean "any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles." 18 U.S.C. 2725(1). It is not clear whether the restriction on dissemination of "motor vehicle records" in Section 350(a) of the DOT Act covers any material found in such records in addition to "personal information," as defined in 18 U.S.C. 2725(3), that might be found in such records, but to the extent that it might, it is doubtful that the restriction adds anything significant to

One evident purpose of Section 350(a) is to tie the DPPA's substantive restrictions on disclosure of personal information in state DMV records to a State's receipt of federal transportation funds. For example, a State that accepts funds for federal-aid highways under 23 U.S.C. 105, for which funds are appropriated in the DOT Act (see enrolled bill (at 11) lodged with the Clerk, note 1, *supra*), may not disclose information from its motor vehicle records for a purpose not permitted by the DPPA. Congress has therefore enacted the substantive restrictions on disclosure in the DPPA under the Spending Clause of the Constitution, U.S. Const. Art. I, § 8, Cl. 1, as well as the Commerce Clause. See generally *South Dakota* v. *Dole*, 483 U.S. 203 (1987).

At the same time, however, Congress did not connect the DPPA exclusively to federal spending or make it exclusively an exercise of its Spending Clause power. Congress did not, for example, repeal the DPPA and reenact its substantive provisions in the appropriations Act. Rather, the DPPA (including its substantive restrictions on disclosure and its criminal and civil penalty and damages provisions) remains a

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the restrictions in the DPPA itself on disclosure of personal information in motor vehicle records.

In addition, although the matter is not entirely clear, the phrase "for any use not permitted under 18 U.S.C. 2721" in Section 350(a) appears to modify all the preceding language of Section 350(a). Therefore, although Section 350(a) states that no recipient of funds "shall disseminate driver's license personal information * * * except as provided in subsection (b)" (subsection (b) refers to photographs, social security numbers, and medical and disability information), we do not read subsection (a) of Section 350 to prohibit dissemination of "driver's license personal information" *not* covered by subsection (b) (such as names, addresses, and telephone numbers in driver's license records) if the DPPA itself would permit such disclosure. That reading is consistent with the Conference Report, which expressly states that "[i]t is the conferees' intent that personal information such as name, address, and telephone number, can still be distributed as specified by the [DPPA] and this Act." H.R. Conf. Rep. No. 355, *supra*, at 121.

part of Title 18 of the United States Code. If, therefore, Congress were to fail to reenact Section 350(a) in next year's DOT appropriations Act, the DPPA would remain in force.

b. In addition to linking the substantive restrictions in the DPPA to the receipt of federal transportation funds, Section 350(b) of the DOT Act establishes an additional restriction specifically on disclosure of certain personal information from DMV records pertaining to driver's licenses. Specifically, Section 350(b) provides that no recipient of funds under the DOT Act may disseminate from a motor vehicle record any driver's license photograph, social security number, or medical or disability information, without the express consent of the person to whom that information pertains. Exceptions are made for certain of the disclosures that are permitted under the DPPA, such as disclosures for use by any government agency (see 18 U.S.C. 2721(b)(1)). The new restriction added by Section 350(b) exists in the appropriations Act only, and is not made an amendment to the DPPA in Title 18. Therefore, if Congress were to fail to reenact this restriction for the next fiscal year, it presumably would expire.

c. By contrast, Section 350(c) of the DOT Act amends one of the substantive restrictions on disclosure in the DPPA itself. Specifically, it amends 18 U.S.C. 2721(b)(11) to provide that a DMV may disclose personal information from a motor vehicle record for "any other use" (that is, any use not expressly covered by 18 U.S.C. 2721(b)(1)-(10) (1994 & Supp. III 1997)) only if the State has obtained "the express consent of the person to whom such personal information pertains." Previously, under the DPPA, a state DMV could disclose information about an individual for "any other use" only if the DMV had afforded the individual the opportunity to prohibit disclosures of personal information, and the individual had declined that opportunity. Section 350(c) thus changes 18 U.S.C. 2721(b)(11) from an "opt out" provision to an "opt in" provision; individuals must affirmatively permit

disclosure of information about them for "any other use" for such disclosure to be permissible. Because this amendment (as well as the similar one made by Section 350(d), discussed below) is to the DPPA itself, it would remain in effect even if Congress were to fail to reenact Section 350 or a similar provision for Fiscal Year 2001.

d. Section 350(d) makes a similar amendment to 18 U.S.C. 2721(b)(12), which governs the disclosure of information for use in surveys, marketing, and solicitations. Previously, disclosure for such purposes was permissible if the DMV had afforded the individual the opportunity to prohibit it, but the individual had declined to do so. After the amendment, a DMV may disclose information about an individual for such purposes only if he or she affirmatively consents.

e. Section 350(e) provides that a State may not condition the issuance of a "motor vehicle record" (as defined in the DPPA, 18 U.S.C. 2725(1)), such as a driver's license, on an individual's consent to the disclosures regulated by Section 350(b) (involving driver's license photographs, social security numbers, and medical and disability information) and Section 350(c) (involving disclosures of personal information for "any other use"). This prohibition was not made part of the DPPA in Title 18, but it also is not expressly limited to recipients of funds under the DOT Act. It therefore is unclear whether it will expire if Congress fails to renew it for the next fiscal year.[4]

f. Section 350(f) provides that the Secretary of Transportation may not withhold funds provided under the DOT Act if a State does not comply with the restrictions in Section 350. Thus, although Section 350 does tie restrictions on disclosure to the receipt of federal funds, it does not permit

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[4] One of the provisions to which Section 350(e) is connected, Section 350(b), is part of the appropriations Act only and will expire at the end of the fiscal year unless renewed by Congress, but the other provision to which Section 350(e) is connected, Section 350(c), effects a permanent amendment to the DPPA.

termination of funding as a sanction for noncompliance with those restrictions. The United States presumably could, however, obtain injunctive relief against a State that did not comply with the condition on the receipt of funds.[5]

g. Section 350(g) specifies various effective dates for the provisions of Section 350:

(i) Section 350(g)(1) provides that, in general, the connection between the restrictions on disclosure in the DPPA and the receipt of federal funds made available in the DOT Act, as provided in Section 350(a), is made immediately effective. Similarly, the prohibition against conditioning the issuance of a driver's license or other motor vehicle record on an individual's consent to certain forms of disclosure, as provided in Section 350(e), is made immediately effective. Temporary exceptions are made, however, for the States of Wisconsin, Oklahoma, and South Carolina, three of the four States that have challenges to the constitutionality of the DPPA currently pending before this Court.[6] Those three States must comply with the restrictions in Section 350(a) and (e) within 90 days after this Court issues "a final decision on Reno vs. Condon," *i.e.*, this case.[7]

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[5] The DPPA itself also provides that noncompliance with its substantive restrictions may be addressed through civil and criminal penalties and civil damages actions. See 18 U.S.C. 2723, 2724.

[6] In addition to this case, which involves South Carolina's challenge to the DPPA, see *Oklahoma Dep't of Pub. Safety* v. *United States*, petition for cert. pending, No. 98-1760, and *Wisconsin Dep't of Transp.* v. *Reno*, petition for cert. pending, No. 98-1818. In this case, the district court held the DPPA unconstitutional and enjoined its enforcement against South Carolina, Pet. App. 72a, and the court of appeals affirmed. In the Oklahoma and Wisconsin cases, the district courts likewise held the DPPA unconstitutional and enjoined further enforcement of the Act against those States; the courts of appeals reversed those decisions, but the government did not object to a stay of the courts of appeals' mandates in those cases, and so the injunctions issued by the district courts in the Oklahoma and Wisconsin cases remain in force.

[7] Alabama has also challenged the constitutionality of the DPPA. The court of appeals ruled in favor of Alabama and held the DPPA unconstitutional; the government filed a petition for a writ of certiorari but did not seek a stay of the court of appeals' mandate. See *Reno* v. *Pryor*, petition for cert. pending, No. 99-61. Section 350(g) does not, however, extend the effective date of the restrictions in Section 350(a) and (e) for Alabama.

(ii) Section 350(g)(2) establishes a general effective date of June 1, 2000, for the provisions of Section 350(b) (prohibiting, with certain exceptions, the unconsented dissemination of driver's license photographs, social security numbers, and medical and disability information), Section 350(c) (amending the DPPA's restrictions on disclosure of personal information for "any other use" to require affirmative consent for disclosure), and Section 350(d) (similarly amending the DPPA's restrictions on disclosure for surveys, marketing, and solicitations to require affirmative consent for disclosure). That delayed effective date was evidently put in place to allow the state DMVs time to develop new procedures for obtaining an individual's express consent to these disclosures. For six States, Section 350(g)(2) establishes an effective date of 90 days after the next convening of the state legislature, perhaps reflecting a congressional judgment that those States might deem it necessary to amend their state codes to establish the necessary procedure for obtaining an individual's consent to disclosure. A special effective date is again established for Wisconsin, South Carolina, and Oklahoma. Under Section 350(g)(2), those States must comply with the provisions of Section 350(b), (c) and (d) within 90 days of "a final decision on Reno vs. Condon" by this Court, or within 90 days after the next convening of the state legislature, if it is not in session when this Court issues its final decision in this case.

2. The enactment of Section 350 of the DOT Act alters the practical significance of the Tenth Amendment challenges that have been made to the DPPA. Upon the taking effect of Section 350(a), the DPPA's substantive restrictions on disclosure of personal information from DMV records are no longer based only on Congress's Commerce Clause power,

but are also based on Congress's extensive power under the Spending Clause. This Court has made clear that Congress may, under the Spending Clause, permissibly place conditions on the receipt of federal funds, even if those conditions would otherwise be inconsistent with the Tenth Amendment. See *New York* v. *United States*, 505 U.S. 144, 171-173 (1992); *South Dakota* v. *Dole*, 483 U.S. at 210; *Oklahoma* v. *United States Civil Serv. Comm'n*, 330 U.S. 127, 143-144 (1947).

Nevertheless, respondents' existing constitutional challenge to the DPPA's restrictions is not moot in the present posture of this case. Congress has expressly delayed the effective date of the application of Section 350 of the DOT Act to South Carolina (and to Wisconsin and Oklahoma) until after this Court's final decision in this case, perhaps in deference to this Court's decisional process. In addition, Congress has not repealed the DPPA, nor has Congress based the restrictions in the DPPA solely on its Spending Clause power. At this juncture, therefore, there remains a live controversy in this case (as well as in the Wisconsin and Oklahoma cases, see note 6, *supra*) and a circuit conflict as to whether the DPPA, as legislation under the Commerce Clause alone, contravenes the Tenth Amendment, for the DPPA's restrictions on disclosure as applied to South Carolina, Wisconsin, and Oklahoma are not *currently* also based on the Spending Clause. Moreover, this case has been fully briefed, and if the Court proceeds to hear this case in its present posture, the issues relevant to respondents' Tenth Amendment challenge to the DPPA do not require supplemental briefing.

At the same time, even if this Court were to issue a final decision on the merits adverse to the government on the legal issue as currently framed before this Court, holding that the DPPA's restrictions on disclosure cannot be sustained under the Commerce Clause alone, Section 350(g)(1) of the DOT Act provides that, within 90 days after that final decision, South Carolina must comply with the very same restrictions on disclosure as a condition to its receipt of federal transportation funds. We have no reason to suppose that South Carolina would forgo the receipt of federal funds made available under the DOT Act in order to avoid that condition. Thus, as a result of Congress's enactment of Section 350, the question whether the DPPA's substantive restrictions on disclosure may be based on the Commerce Clause alone has something of an academic tenor at the present time.

In light of the foregoing considerations, although respondents' Tenth Amendment challenge to the DPPA as Commerce Clause legislation alone is not moot, the Court may wish to consider vacating the judgment of the court of appeals and remanding the case to that court for further proceedings in light of Section 350 of the DOT Act. Such a disposition by this Court would constitute "a final decision on Reno vs. Condon by the United States Supreme Court" within the meaning of Section 350(g) of the DOT Act, and therefore would make applicable to South Carolina (and Wisconsin and Oklahoma), within 90 days of that "final decision," the basic provision of Section 350(a) that ties the restrictions on disclosure in the DPPA to the receipt of federal transportation funds. If one of those States should then decide to challenge the DPPA's restrictions on disclosure even under the Spending Clause, the lower court having jurisdiction over the particular case would consider that constitutional challenge in the first instance, and if further review were sought, this Court could decide at that time whether review of the Spending Clause issue would be warranted. That disposition would be consistent with this Court's often-expressed policy of restraint with respect to reaching and deciding constitutional issues. See *Spector Motor Serv., Inc.*

v. *McLaughlin*, 323 U.S. 101, 105 (1944); *Burton* v. *United States*, 196 U.S. 283, 295 (1905).[8]

* * * * *

For the foregoing reasons, respondents' Tenth Amendment challenge to the DPPA as Commerce Clause legislation alone is not moot, and is fully briefed and ready for argument. The Court may wish, however, to consider vacating the judgment of the court of appeals and remanding the case to that court for further proceedings in light of Section 350 of Public Law No. 106-69.

Respectfully submitted.

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OCTOBER 1999

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[8] An order vacating the decision below and remanding the case to the court of appeals, as discussed herein, would be preferable to a dismissal of the writ of certiorari as improvidently granted. If this Court were to dismiss the writ, then the erroneous decision of the Fourth Circuit invalidating the DPPA would remain in place, even though the State of South Carolina would almost immediately become subject to the restrictions of the DPPA as a consequence of its receipt of federal transportation funds. In addition, as we have explained (p. 6, *supra*), under Section 350(g)(1), Section 350(a) will become applicable to Oklahoma and Wisconsin as well 90 days after the Court's final decision in this case, and Section 350(a) is already applicable to Alabama. Accordingly, if the Court vacates the judgment of the court of appeals in this case and remands for further proceedings in light of Section 350 of the DOT Act, the Court should take similar action with respect to the other pending petitions, involving those States' challenges to the DPPA. See *Oklahoma Dep't of Pub. Safety* v. *United States*, petition for cert. pending, No. 98-1760; *Wisconsin Dep't of Transp.* v. *Reno*, petition for cert. pending, No. 98-1818; and *Reno* v. *Pryor*, petition for cert. pending, No. 99-61. If the Court simply denied certiorari in those cases, the current circuit conflict on the Tenth Amendment issue presented in this case would persist, even though the DPPA's restrictions as applied to those States would be tied to the receipt of federal funds.

APPENDIX

1. Section 350 of the Department of Transportation and Related Agencies Appropriation Act for Fiscal Year 2000, Pub. L. No. 106-69, 113 Stat. 1025, provides as follows:

> (a) No recipient of funds made available in this Act shall disseminate driver's license personal information as defined in 18 U.S.C. 2725(3) except as provided in subsection (b) of this section or motor vehicle records as defined in 18 U.S.C. 2725(1) for any use not permitted under 18 U.S.C. 2721.
>
> (b) No recipient of funds made available in this Act shall disseminate a person's driver's license photograph, social security number, and medical or disability information from a motor vehicle record as defined in 18 U.S.C. 2725(1) without the express consent of the person to whom such information pertains, except for uses permitted under 18 U.S.C. 2721(1), 2721(4), 2721(6), and 2721(9): *Provided*, that subsection (b) shall not in any way affect the use of organ donation information on an individual's driver's license or affect the administration of organ donation initiatives in the States.
>
> (c) 18 U.S.C. 2721(b)(11) is amended by striking all after "records" and inserting the following: "if the State has obtained the express consent of the person to whom such personal information pertains."
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> (d) 18 U.S.C. 2721(b)(12) is amended by striking all after "solicitations" and inserting the following: "if the State has obtained the express consent of the person to whom such personal information pertains."
>
> (e) No State may condition or burden in any way the issuance of a motor vehicle record as defined in

18 U.S.C. 2725(1) upon the receipt of consent described in paragraphs (b) and (c).

(f) Notwithstanding subsections (a) and (b), the Secretary shall not withhold funds provided in this Act for any grantee if a State is in noncompliance with this provision.

(g) EFFECTIVE DATES.——

(1) Subsections (a) and (e) shall be effective upon the date of the enactment of this Act, excluding the States of Wisconsin, South Carolina, and Oklahoma that shall be in compliance with this subsection within 90 days after the United States Supreme Court has issued a final decision on Reno vs. Condon;

(2) Subsections (b), (c), and (d) shall be effective on June 1, 2000, excluding the States of Arkansas, Montana, Nevada, North Dakota, Oregon, and Texas that shall be in compliance with subsections (b), (c), and (d) within 90 days of the next convening of the State legislature and excluding the States of Wisconsin, South Carolina, and Oklahoma that shall be in compliance within 90 days following the day of issuance of a final decision on Reno vs. Condon by the United States Supreme Court if the State legislature is in session, or within 90 days of the next convening of the State legislature following the issuance of such final decision if the State legislature is not in session.

2. The Conference Report on Pub. L. No. 106-69 (H.R. 2084), H.R. Conf. Rep. No. 106-355, 106th Cong., 1st Sess. 121 (1999), states:

> Sec. 350 modifies language proposed by the Senate that protects personal and related information on motor vehicle records. The Senate proposed prohibiting funds in this Act to execute a project agreement for any highway project in a state that sells drivers' license personal information and drivers' license photographs unless that state has established and implemented an opt-in process for such information and photographs. The prohibition on the sale of written information applies only if sold for purposes of surveys, marketing or solicitations. The House proposed no similar provision.
>
> It is the conferees' intent that personal information, such as name, address, and telephone number, can still be distributed as specified by the Driver Protection Privacy Act [*sic*] and this Act.

3. The following statement was made by Senator Richard Shelby on the floor of the Senate with respect to Section 350 of the DOT Act (145 Cong. Rec. S11,863 (daily ed. Oct. 4, 1999)):

> I want to mention one other issue that has been the topic of many conversations over the past couple of weeks. That is, the Senate provision concerning the release of personal information by state departments of motor vehicles. My concern is that private information is too available. The proliferation of information over the Internet makes it easy and cheap for almost anyone to access very personal information.
>
> I think members would be shocked by what virtually anyone—including w[ei]rdos and stalkers—can find out about you, your wife, or your children with only a rudimentary knowledge of how to search the Internet.
>
> I believe that there should be a presumption that personal information will be kept confidential, unless there is compelling state need to disclose that information.

Most states, however, readily make this information available, and because states sell this information, a lot of information about you effectively comes from public records.

Section 350 of the conference report protects personal information from broad distribution by requiring express consent prior to the release of information in two situations. First, individuals must give their consent before a state is able to release photographs, social security numbers, and medical or disability information. Of course, this excludes law enforcement and others acting on behalf of the government. Second, individuals must give their consent before the state can sell or release other personal information that is disseminated for the purpose of direct marketing or solicitations. I want to be clear: this applies only when the state sells your name, address, and other such information to people who are using that information for marketing purposes.

We recognize that states may need time to comply with this provision. And we've proposed to delay the effective date 9 months. In addition, there was concern expressed about this provision being tied to transportation funds under this bill, and the conference agreement eliminates the sanction language and expressly states that no states' fund [*sic*] may be withheld because of non-compliance with this provision. In addition, the Congressional Budget Office has performed a cost estimate of this provision, and found that the total implementation cost for States is well below $50 million nationally.

I believe that the general public would be as shocked as my colleagues in the Senate if they learned that states

were running a business with the personal information from motor vehicle records.

4. H.R. 2084, as initially passed by the Senate on September 16, 1999 (comprising the substance of S. 1143, as reported by the Senate Appropriations Committee on May 27, 1999), contained the following provision:

> SEC. 339. (a) PROHIBITION—Except as otherwise provided in subsection (c), no recipient of funds made available under this Act may sell, or otherwise provide to another person or entity, personal information (as defined in 18 U.S.C. Section 2725(3)) contained in a driver's license, or in any motor vehicle record (as defined in 18 U.S.C. Section 2725(1)) without the express written consent of the individual to whom the information pertains.
>
> (b) CONSENT—No recipient of funds made available under this Act may condition or burden in any way the issuance of a motor vehicle record (as defined in 18 U.S.C. Section 2725(1)) upon the receipt of consent described in subsection (a).
>
> (c) LAW ENFORCEMENT—Subsection (a) does not apply to a law enforcement agency in any case in which the application of that subsection would hinder the ability of that law enforcement agency, acting in accordance with applicable law, to gain access to a driver's license or photograph of an individual.

5. The Report of the Senate Appropriations Committee on S. 1143, S. Rep. No. 55, 106th Cong., 1st Sess. 166 (1999), states:

> SEC. 339. Includes a provision which prevents the distribution of personal data from drivers licenses without express written consent of the individual.